



Administrative Rules Division
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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

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Supp. 22-1

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CHAPTER TABLE OF CONTENTS

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-2-101.	Definitions 2
R4-2-102.	Strikes 2
R4-2-103.	Notice of Appearance; Signing Pleadings and Documents; Filing Documents 2
R4-2-104.	Service of Process and Legal Documents 2
R4-2-105.	Computation of Time 2

ARTICLE 2. ELECTIONS

Section	
R4-2-201.	Contents of Petition for Election 3
R4-2-202.	Withdrawal of Petition 3
R4-2-203.	Challenge to Petition; Waiver 3
R4-2-204.	Investigation of Petition 3
R4-2-205.	Time for Submission of Authorizations 4
R4-2-206.	Form and Content of Authorizations 4
R4-2-207.	Validity of Authorizations 4
R4-2-208.	Confidentiality of Authorizations 4
R4-2-209.	Showing of Interest Computation 4
R4-2-210.	Existence of a Question of Representation 5
R4-2-211.	Notice of Hearing 5
R4-2-212.	Intervention by a Subsequent Labor Organization 5
R4-2-213.	Peak Employment During Eligibility Period and Election 5
R4-2-214.	Election Procedures 5
R4-2-215.	Objections to Election; Investigation 5
R4-2-216.	Run-off Elections 6

R4-2-217.	Consent-election Agreements6
R4-2-218.	Renumbered6
R4-2-219.	Repealed6

ARTICLE 3. UNFAIR LABOR PRACTICES

Section	
R4-2-301.	Unfair Labor Practice Charges6
R4-2-302.	Form and Contents of Charge6
R4-2-303.	Investigation of Charge6
R4-2-304.	Complaint7
R4-2-305.	Refusal to Issue Complaint7
R4-2-306.	Repealed7
R4-2-307.	Repealed7
R4-2-308.	Repealed7
R4-2-309.	Repealed7
R4-2-310.	Repealed7
R4-2-311.	Repealed7

ARTICLE 4. HEARINGS

Section	
R4-2-401.	Hearings7
R4-2-402.	Repealed8
R4-2-403.	Repealed8
R4-2-404.	Repealed8
R4-2-405.	Repealed8
R4-2-406.	Repealed8
R4-2-407.	Rehearing or Review of Decision; Basis8

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

ARTICLE 1. GENERAL PROVISIONS**R4-2-101. Definitions**

In addition to the definitions provided in A.R.S. § 23-1382, the following terms apply to this Chapter:

“Act” means the Agricultural Employment Relations Act, A.R.S. Title 23, Chapter 8, Article 5, § 23-1381, et seq.

“Administrative Law Judge” or “ALJ” means an individual, or the Board, who conducts and makes decisions regarding an administrative hearing in a contested case or an appealable agency action, according to A.R.S. Title 23, Chapter 8, Article 5, and these rules adopted thereunder.

“Authorization period” means the four pay periods immediately preceding the filing of a petition for election under A.R.S. § 23-1389(C).

“Bargaining unit” means those employees who share a community of interest with regard to wages and terms and conditions of employment as described in A.R.S. § 23-1389(B).

“Board agent” means any individual acting on behalf of the Board, including the Executive Secretary, the General Counsel, and investigators with whom the Board contracts to investigate issues relating to unfair labor practice charges and petitions for election.

“Calendar year” means the period beginning January 1 and ending December 31.

“Complete contact information” means mailing address, email address, phone number, and in the case of an organization or corporation, the name of the contact individual.

“Consent election” means an election held following the Board’s approval of a voluntary and complete consent election agreement submitted to the Board.

“Eligibility period” means the three pay periods immediately preceding the filing of a petition for election under A.R.S. § 23-1389(C).

“Executive Secretary” means the Executive Secretary appointed by the Board under A.R.S. § 23-1388.

“General Counsel” means the attorney representing the Board.

“Independent contractor” means an employer engaged in the business of supplying labor to a farm or ranch.

“Leave of absence” means an employment status determined by the employer and the employee permitting the employee to cease work for that employer for a specified period of time.

“Pay period” means the seven-day period used by an agricultural employer for payroll purposes. If the agricultural employer does not use a seven-day pay period, pay period means a seven-day period, Sunday through Saturday.

“Respondent” means the employer in a certification election or current representative in a decertification election.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-102. Strikes

Employees or their representative may advertise their dispute with the agricultural employer and picket the employer. Employees or their representative shall not picket so as to interfere with the work

of a neutral employer or supplier who is not involved in the dispute. A dispute between an independent contractor and agricultural employees or their representative shall not be deemed to be a labor dispute involving the farm or ranch, or the owner, lessee, or operator of the farm or ranch.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-103. Notice of Appearance; Signing Pleadings and Documents; Filing Documents

- A. The attorney of a party to a proceeding under investigation by the Board shall promptly file a notice of appearance with the Board. Once filed, the notice shall remain in effect for the duration of the proceeding, or until the Board is notified, in writing, that the attorney is not representing the party.
- B. A document filed with the Board shall be signed by the party or the party’s attorney. A signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose of delay or harassment.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-104. Service of Process and Legal Documents

- A. A person serving a petition for election, petition for decertification, objection to an election, or subpoena shall serve according to A.R.S. § 23-1391(C).
- B. Other than documents listed in subsection (A), or as provided in A.R.S. § 23-1391(C), documents may be filed with the Board electronically, by mail or personal delivery. Electronic document delivery to the Board shall be sent to the Executive Secretary email address listed on the AERB website at: <https://agriculture.az.gov/boards-councils/agricultural-employment-relations-board>. Documents shall be personally delivered or mailed to the Board’s principal office, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of Arizona legal holidays. A document is considered filed on the date its signed copy is received by the Board.
- C. If an attorney enters a notice of appearance in a proceeding, service of motions and papers upon the attorney constitutes service upon the party.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-105. Computation of Time

In computing any period of time prescribed by this Chapter, by order of the Board, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not included. If the prescribed period of time is less than 11 days, intermediate Saturdays, Sundays, and Arizona legal holidays are not included in the computation. The last day of the period is included, unless it is a Saturday, Sunday, or Arizona legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Arizona legal holiday.

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective
January 21, 2003 (Supp. 03-1).

ARTICLE 2. ELECTIONS**R4-2-201. Contents of Petition for Election**

- A.** A petition for certification election filed under A.R.S. § 23-1389(C) by an agricultural employee, a group of agricultural employees, an individual, or a labor organization acting on the employees' behalf, shall be signed under oath and shall contain the following information:
1. The name and complete contact information of the agricultural employer;
 2. A description of the bargaining unit that the petitioner claims to be appropriate;
 3. The approximate number of employees in the alleged appropriate unit;
 4. A brief statement that the employer declines to recognize the petitioner as a bargaining representative, or that the petitioner is currently recognized but desires certification under the Act;
 5. The name, affiliation, if any, and complete contact information of petitioner;
 6. The name and complete contact information of any other person who claims to represent an employee in the alleged appropriate bargaining unit;
 7. Whether a strike or picketing is in progress at the agricultural employer's establishment and, if so, the approximate number of employees participating, and the date the strike or picketing commenced;
 8. A statement that the petition for election is supported by 30% or more of the agricultural employees in the bargaining unit; and
 9. Any other relevant fact.
- B.** A petition for decertification election filed under A.R.S. § 23-1389(J) by an agricultural employee, a group of agricultural employees, a labor organization, or an individual acting on the employees' behalf, shall be signed under oath and contain the following information:
1. The name and complete contact information of the petitioner;
 2. A statement that:
 - a. A representative other than petitioner has been certified, or is currently recognized by the employer;
 - b. Petitioner desires to rescind the certification; and
 - c. Includes the unit claimed to be appropriate, a description of the unit, and the number of employees in the unit;
 3. The name, affiliation, if any, and complete contact information of the person whose recognition or certification the petitioner seeks to rescind;
 4. A statement whether the agricultural employer has a contract with any labor organization or other representative of its employees and, if so, the expiration date;
 5. Whether a strike or picketing is in progress at the agricultural employer's establishment and, if so, the approximate number of employees participating, and the date the strike or picketing commenced;
 6. A statement that the petition for decertification election is supported by 30% or more of the agricultural employees in the bargaining unit; and
 7. Any other relevant fact.
- C.** The Board shall not accept a petition for election that is submitted for filing if it does not contain all the information required by subsections (A) or (B).

- D.** The Executive Secretary shall, within 10 days after the filing of a petition for election with the Board, send a copy of the petition to the respondent named in the petition. If the Board certified a representative other than the petitioner, a copy of the petition shall also be sent to the certified representative.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective
January 21, 2003 (Supp. 03-1). Amended by final
rulemaking at 28 A.A.R. 395 (February 18, 2022), effective
April 5, 2022 (Supp. 22-1).

R4-2-202. Withdrawal of Petition

A petition for election that is filed with the Board may not be withdrawn unless the petitioner and the respondent stipulate to the withdrawal.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective
January 21, 2003 (Supp. 03-1). Amended by final
rulemaking at 28 A.A.R. 395 (February 18, 2022), effective
April 5, 2022 (Supp. 22-1).

R4-2-203. Challenge to Petition; Waiver

- A.** The Board is not required to investigate a challenge to a petition for election filed under A.R.S. § 23-1389(F).
- B.** If a respondent fails to file a timely challenge to the petition for election under A.R.S. § 23-1389(F), the right to challenge is waived.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective
January 21, 2003 (Supp. 03-1).

R4-2-204. Investigation of Petition

- A.** In addition to the notice of a petition sent under R4-2-201(D), the Board or its agent shall contact the agricultural employer by the most expeditious method within 10 days after a petition for election is filed; and, within seven days of notification, the agricultural employer shall furnish each employment record, payroll signature list, and other pertinent data requested by the Board or its agent to investigate the petition. The agricultural employer shall certify in writing and under oath that the information provided to the Board is true, complete, and accurate.
- B.** The Board shall review each authorization submitted under R4-2-205, as soon as practicable, to determine whether there is reasonable cause to believe a question of representation exists under A.R.S. § 23-1389 and R4-2-210.
- C.** The Board may conduct any investigation it deems necessary, following a review of the authorizations and pertinent employment data, to determine whether a question of representation exists including, but not limited to, a field investigation. In the event of any formal or informal interview during the investigation with an agricultural employee, the Board shall create and keep in its records a written investigative report, which shall include the name, affiliation, if any, complete contact information, and title of the agricultural employee interviewed and a summary of the agricultural employee's statements made during the interview. Any name, complete contact information, and statement recorded in such investigative report shall be subject to the confidentiality established under subsections (D) and (E) and R4-2-208.
- D.** The Board shall conduct an investigation in a manner that preserves the confidentiality of the identity of an agricultural employee and the employee's position regarding authorization.

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

- E. Except as required by law, the Board or its agent shall not disclose to any person or party the number of authorizations filed; an investigative report; the identity of a person interviewed in conjunction with the investigation; or any other information concerning the investigation.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-205. Time for Submission of Authorizations

- A. A petitioner shall submit every authorization with the petition for a certification or decertification election. Except as provided in subsection (B), the Board shall not accept an authorization after the petition for certification or decertification election is filed.
- B. If the Board or its agent initially determines that the showing of interest is insufficient to warrant a pre-election hearing, the Board shall notify the petitioner that additional authorizations may be filed with the Board within the next two business days. An additional authorization is not valid unless it is signed after the day the petition is filed; the individual signing the authorization was an agricultural employee at the time the authorization was signed; and the signing employee was employed during the eligibility period.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-206. Form and Content of Authorizations

- A. An individual can show interest by completing an authorization card or signing a petition.
- B. An individual authorization card submitted to the Board as evidence of a showing of interest is not valid unless the card contains only one name, one signature, and the following legible information:
1. The employee's name, name of employer, and social security or employee identification number;
 2. The signature of the employee and date in the employee's own handwriting; and
 3. A statement that the employee is knowingly providing authorization that the petitioner may represent that employee for the purpose of collective bargaining in Arizona only, and authorization that the petitioner may file a petition for election under A.R.S. § 23-1389.
- C. A signature petition submitted as authorization to evidence a showing of interest is not valid unless it contains:
1. The signature of the employee, social security or employee identification number, and date in the employee's own handwriting; and
 2. The name of the employer and a statement that the employee is knowingly providing authorization that the petitioner may represent that employee for the purpose of collective bargaining in Arizona only, and authorization that the petitioner may file a petition for election under A.R.S. § 23-1389.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final

rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-207. Validity of Authorizations

- A. An authorization is valid if signed at any time during the authorization period by an individual who is an agricultural employee at the time of signing the authorization, or if signed as prescribed in R4-2-205(B).
- B. An authorization is valid even if the agricultural employee who signed that authorization also signed an authorization for another labor organization.
- C. An authorization signed by an agricultural employee hired after the date the petition is filed is not valid for the purpose of computing the showing of interest.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-208. Confidentiality of Authorizations

An authorization and its contents are confidential except if subject to a lawful subpoena.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-209. Showing of Interest Computation

- A. The Board or its agent shall compute the showing of interest for any pay period within the eligibility period by taking the total number of agricultural employees employed in the bargaining unit during that pay period and determining how many of those employees signed a valid authorization as prescribed in this Article.
- B. To determine whether an individual is an agricultural employee, permanent, within the meaning of A.R.S. § 23-1382(1), six months means 132 work days.
- C. The Board shall not include in the bargaining unit for a pay period an agricultural employee who is eligible for unemployment benefits for the entire pay period.
- D. The Board shall not include in the bargaining unit for a pay period an agricultural employee who is on a leave of absence for the entire pay period unless the following conditions are met:
1. The employer produces a document, signed by the employee and notarized, stating that the employee was placed on leave of absence for a specified period of time;
 2. The date of the employee's projected return does not exceed six months from the date the petition for election is filed; and
 3. There is no substantial evidence establishing that the employee's leave of absence is a pretense or that the employee will not return from the leave of absence as scheduled.
- E. The Board shall not include in the bargaining unit an agricultural employee who is placed on workers' compensation leave, unless the following conditions are met:
1. The employer produces a document signed by a licensed physician stating the date the employee was placed on workers' compensation leave and the date of the employee's projected return;
 2. The date of the employee's projected return does not exceed six months from the date the petition for election is filed; and

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

3. There is no substantial evidence establishing that the employee's workers' compensation leave is a pretense or that the employee will not return from the workers' compensation leave of absence as scheduled.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-210. Existence of a Question of Representation

A question of representation exists in the bargaining unit if there is a 30% showing of interest in the final pay period of the eligibility period and in either of the other two pay periods of the eligibility period.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-211. Notice of Hearing

- A. The Board shall issue a Notice of Hearing as prescribed in Article 4 if a question of representation exists.
- B. A person may, by written request to the Board, receive notice of the filing of a petition for election and a related notice of hearing.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-212. Intervention by a Subsequent Labor Organization

- A. The ALJ may allow a subsequent labor organization to intervene only at the initial session of the pre-election hearing on a petition filed by the first labor organization and may place the subsequent labor organization on an election ballot only if the ALJ finds:
 1. The subsequent labor organization filed with the Board a petition for certification election together with a sufficient number of signed authorizations to meet the 30% showing of interest required to establish a question of representation under R4-2-210; and
 2. The subsequent labor organization filed its petition and authorizations not later than seven days before the scheduled start of the initial session of the pre-election hearing.
- B. In determining the validity of an authorization filed by a subsequent labor organization, the Board shall use the same authorization period as that of the original petitioner.
- C. In determining the showing of interest for a subsequent labor organization, the Board shall use the same eligibility period as that of the original petitioner.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-213. Peak Employment During Eligibility Period and Election

- A. The Board shall hold an election when the bargaining unit is at peak. A bargaining unit is at peak when the number of

employees in the unit is not less than 66 2/3% of the maximum number of employees who have been or will be employed in the bargaining unit during the current crop growing season. If peak does not occur at any time during the remainder of the current growing season, the Board shall hold the election at peak during the following growing season.

- B. In determining the total number of bargaining unit employees who have been or will be employed at any one time during the current growing season, the ALJ shall consider:
 1. The employer's prior peak employment figures;
 2. The types of crops grown;
 3. The past and present acreage for the crop or crops in question;
 4. The number of employees at other farms with the same or similar crops and similar acreage; and
 5. Any other relevant fact.
- C. A question of representation exists in a bargaining unit only if the bargaining unit is at peak during the eligibility period. The respondent named in a petition has the burden to allege and prove that the bargaining unit is not at peak during a pay period in an eligibility period.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-214. Election Procedures

- A. Only an individual who is an agricultural employee in the appropriate bargaining unit on the date of an election is eligible to vote in the election.
- B. A party may be represented by two observers of the party's selection, subject to the following limitations:
 1. A union shall not select as an observer an official of any labor organization, and
 2. An agricultural employer shall not select as an observer a supervisor or company official.
- C. A party or the Board's agent may challenge, for good cause, the eligibility of an individual to participate in an election. The Board shall impound the ballot of a challenged individual.
- D. The Board shall issue a tally of the ballots upon the conclusion of the election.
- E. If there are enough challenged ballots to affect the results of the election, the Board shall, as soon as practicable, investigate the challenges, issue a revised tally, and serve the revised tally upon all parties.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-215. Objections to Election; Investigation

- A. Within seven days after the tally of the ballots by the Board, a party may file with the Board an objection to the conduct of the election or conduct affecting the results of the election. The party filing the objection shall specifically set forth each fact and allegation in support of the objection. The party filing the objection shall simultaneously serve a copy of the objection on all other parties and file a certificate of service with the Board. The party filing the objection shall not raise in the objection an issue that was or could have been raised in either a challenge to the petition or the pre-election hearing.
- B. The Board shall not take further action on an objection if the objection is not timely filed, does not comply with subsection (A), or the number of challenged ballots is insufficient to

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

affect the election results and a run-off election is not required under R4-2-217.

- C. If any objection meets the requirements of subsection (A), the Board shall investigate objections to the conduct of an election or conduct affecting the results of an election. If the Board determines that the objection is valid, the Board shall decertify the election results. The Board shall dismiss the objection if the Board determines that the objection is invalid. Any action by the Board under this Section shall comply with A.R.S. § 23-1387(C).
- D. If the Board decertifies the election results or dismisses the objection under subsections (B) or (C), the Board shall serve all the parties with its written decision. If the Board dismisses the objection, it shall immediately issue a certification of the results of the election, including certification or decertification of the representative, as appropriate. An aggrieved party may appeal the Board's decision as prescribed in Article 4, within 30 days after the party receives the notice of the decision. The Board may extend the time for filing an appeal for good cause.
- E. In investigating an objection, if the Board determines that substantial and material factual issues exist that can be resolved only after a hearing, the Board shall issue a Notice of Hearing. Any hearing under this subsection and any objection to the resulting decision shall be initiated and conducted as prescribed by Article 4.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-216. Run-off Elections

- A. If an election ballot provides for a choice among at least two labor organizations and "no union," and none of the choices on the ballot receive a majority of valid votes cast, the Board shall, as soon as practicable, conduct a run-off election.
- B. In a run-off election, only an individual who is an agricultural employee in the appropriate bargaining unit on the date of the run-off election is eligible to vote.
- C. The ballot in a run-off election shall provide for a selection between the labor organization receiving the highest number of votes in the original election and "no union."
- D. The Board shall administer a run-off election as prescribed in R4-2-214.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Section repealed, new Section R4-2-216 renumbered from R4-2-217 and amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-217. Consent-election Agreements

An agricultural employer may enter into a consent-election agreement with one or more individuals or labor organizations that present to the employer a claim to be recognized as the representative of a designated bargaining unit. The parties shall submit to the Board an agreement containing a description of the appropriate bargaining unit, a proposed time and place for holding the election, and a statement specifying which agricultural employees within the appropriate bargaining unit are eligible to vote. The Board shall conduct a consent election if the Board finds that the consent-election agreement is fair and not collusive. The Board shall conduct a consent election consistent with the methods followed by the Board in conducting elections.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Section R4-2-217 renumbered to R4-2-216; new Section R4-2-217 renumbered from R4-2-218 and amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-218. Renumbered**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Section renumbered to R4-2-217 by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-219. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

ARTICLE 3. UNFAIR LABOR PRACTICES**R4-2-301. Unfair Labor Practice Charges**

Any person may make a charge that a person has engaged in or is engaging in an unfair labor practice. The charge may be withdrawn by the charging party before the hearing and thereafter with the consent of the ALJ. If a complaint has issued under R4-2-304 and the charge is withdrawn, the Board may dismiss the complaint on the advice of the General Counsel.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-302. Form and Contents of Charge

- A. A charging party shall include the following in the charge:
 1. The full name and complete contact information of the individual, agricultural employer, or labor organization making the charge;
 2. If the charge is filed by a labor organization, the full name and complete contact information of any national or international labor organization of which it is an affiliate or constituent unit;
 3. The full name and complete contact information of the individual, agricultural employer, or labor organization against whom the charge is made; and
 4. A clear and concise statement of the facts constituting the alleged unfair labor practice.
- B. A charging party shall make the charge in writing, sign the charge, and declare under penalty of perjury that its contents are true and correct to the best of the charging party's knowledge, information, and belief.
- C. The Board shall not accept a charge that is submitted for filing if it does not contain all the information required in subsections (A) and (B).

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-303. Investigation of Charge

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

- A. The Board shall, as directed by R4-2-104(A), serve a copy of a filed charge upon the individual, agricultural employer, or labor organization against whom the charge is made.
- B. The General Counsel shall conduct a preliminary investigation of the charge under A.R.S. § 23-1390(K). After the preliminary investigation, and at the discretion of the General Counsel, the General Counsel may:
1. Refuse to issue a complaint; or
 2. File a complaint against any individual, agricultural employer, or labor organization named in the charge that the General Counsel believes may have committed an unfair labor practice; and
 3. If directed by the Board, seek appropriate injunctive relief or a restraining order, as provided for in A.R.S. § 23-1390.
- C. An investigative report, note, memorandum, oral or written statement, tape recording, and any other information or work product prepared or obtained by the General Counsel during an investigation is not subject to subpoena powers of the Act and a person shall not disclose this information to any person without the consent of the General Counsel, unless otherwise provided by law.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-304. Complaint

- A. If the General Counsel decides after investigating a charge that a formal proceeding should be instituted, the General Counsel shall issue and serve, as directed by R4-2-104(A), on each party a complaint stating the alleged unfair labor practice. The General Counsel shall include in the complaint a clear and concise statement of the legal and factual basis of the Board's jurisdiction and a clear and concise description of the act that is claimed to constitute an unfair labor practice. The General Counsel shall include a notice of hearing issued under Article 4 with the complaint.
- B. After the hearing date is set, the General Counsel shall not amend the complaint unless the General Counsel makes a motion to amend and the ALJ grants the motion.
- C. The General Counsel may withdraw a complaint before the hearing. After the opening of the hearing, the complaint may be withdrawn upon motion by the General Counsel with consent of the ALJ.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-305. Refusal to Issue Complaint

- A. If, after a charge is filed, the General Counsel declines to issue a complaint or, having withdrawn a complaint, refuses to reissue it, the General Counsel shall serve a written statement of the grounds for the action on each party. The charging party may file a request to reconsider the refusal to issue or reissue the complaint with the General Counsel within 10 days of receipt of notice of the refusal and shall simultaneously serve a copy on all other parties. The General Counsel shall file any response to the request within seven days of receiving it. The

General Counsel shall serve the decision on each party in writing and within seven days of the date the decision is made.

- B. The charging party may file a request to reconsider with the General Counsel if, after the General Counsel refuses to issue or reissue a complaint, newly discovered material evidence is found that could not with reasonable diligence have been discovered at the time the original charge was filed. The request shall be filed within 10 days after the discovery of the evidence.
- C. Nothing in this Section prohibits or limits the General Counsel from issuing or reissuing a complaint following a notice of refusal to issue a complaint or withdrawal of a complaint, however, if a complaint is withdrawn or dismissed on the General Counsel's own motion, the General Counsel shall not reissue the complaint more than six months after the date of the withdrawal or dismissal of the original complaint.
- D. Service under this Section shall be as directed by R4-2-104(A).

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).

R4-2-306. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-307. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-308. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-309. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-310. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-311. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

ARTICLE 4. HEARINGS**R4-2-401. Hearings**

CHAPTER 2. AGRICULTURAL EMPLOYMENT RELATIONS BOARD

The Board shall use the uniform administrative hearing procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern the initiation and conduct of formal adjudicative proceedings before the Board.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4).
Amended by repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-402. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-403. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-404. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-405. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-406. Repealed**Historical Note**

Adopted effective December 26, 1995 (Supp. 95-4). Section repealed by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1).

R4-2-407. Rehearing or Review of Decision; Basis

- A.** A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.
- B.** The Board shall grant a rehearing or review of a final administrative law decision for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings or abuse of discretion depriving the moving party of a fair hearing;
 2. Misconduct of the Board, ALJ, or the prevailing party;
 3. Accident or surprise that could not reasonably have been prevented;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceedings; or
 7. The decision is not justified by the evidence or is contrary to law.
- C.** The Board may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (B). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

Historical Note

Adopted effective December 26, 1995 (Supp. 95-4). Amended by final rulemaking at 9 A.A.R. 460, effective January 21, 2003 (Supp. 03-1). Amended by final rulemaking at 28 A.A.R. 395 (February 18, 2022), effective April 5, 2022 (Supp. 22-1).